

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MICHAEL MERKLE,

Plaintiff,

v.

T-MOBILE USA, INC.,

Defendant

Civ. Action No. 07-3401 (KSH)

ORDER

KATHARINE S. HAYDEN, U.S.D.J.

For the reasons stated in the opinion filed herewith,

It is on this 31st day of July, 2008,

ORDERED that defendant's motion to dismiss (D.E. 12) is **granted** as to Count 3, and
denied as to Counts 1 and 2; and it is further

ORDERED that the parties are directed to contact Magistrate Judge Shwartz for further case
management.

/s/ Katharine S. Hayden
Katharine S. Hayden
United States District Judge